

Message Text

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ORIGIN EB-08

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TO AMEMBASSY BELGRADE
AMEMBASSY DUBLIN
AMEMBASSY BRUSSELS
AMEMBASSY LISBON
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AMEMBASSY ATHENS
AMEMBASSY COPENHAGEN
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E.O. 11652: N/A

TAGS: EAIR

SUBJECT: CIVAIR: US-CANADIAN-ECAC TALKS ON CHARTERS AND
FARES, MARCH 15 AND 16

SUMMARY. ONE-DAY SESSION WITH ECAC AND CANADIANS ON CHARTERS BROUGHT NO PROGRESS TOWARD CONSENSUS ON A MULTILATERAL APPROACH TO CHARTERS AND HIGHLIGHTED DIFFERENCES BETWEEN US ON ONE HAND AND ECAC AND CANADA ON THE OTHER. PUBLICATION OF CAB'S NPRM (NOTICE OF PROPOSED RULEMAKING) WHICH WOULD REPLACE MOST EXISTING CHARTER TYPES (ADVANCE BOOKING, INCLUSIVE TOUR, ETC.) WITH ONE "PUBLIC CHARTER" CATEGORY WITHOUT ANY ADVANCE PURCHASE, MINIMUM STAY OR GROUP PURCHASE REQUIREMENTS, OVERSHADOWED MEETING WITH RESULT THAT THERE WAS LITTLE DISCUSSION OF LATEST US DRAFT PAPER WHICH WAS INTENDED TO BE BASIS FOR MEETING. ECAC LEFT EXTENSIVE LIST OF QUESTIONS ON US DRAFT PAPER AND US UNDERTOOK TO PROVIDE WRITTEN ANSWERS IN NEXT FEW MONTHS. HALF-DAY DISCUSSION ON FARES REVEALED GENERAL EUROPEAN CONCERN THAT US WAS MOVING TOO FAR TOO FAST IN DIRECTION OF LOWER FARES WITHOUT SUFFICIENT DATA OR TIME TO MEASURE IMPACT ON AIRLINES. PARTIES AGREED TO MEET AGAIN IN LATTER HALF OF NOVEMBER TO DISCUSS CHARTERS AND FARES AND TO HAVE PRIOR EXCHANGES ON DATA ON SUMMER

SEASON TO FORM BASIS FOR NOVEMBER TALKS. CANADA OFFERED TO HOST NOVEMBER MEETING. END SUMMARY.

1. TRIPARTITE TALKS GOT UNDERWAY JUST AFTER NEW US-DUTCH AGREEMENT PROVIDING FOR LIBERAL RULES OF LIMITED OFFICIAL USE

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ORIGIN REGIME FOR CHARTERS AND SIMILAR ARRANGEMENT WHEREBY FARES WILL BE SUBJECT ONLY TO APPROVAL OF COUNTRY IN WHICH TRAFFIC IN QUESTION ORIGINATED. TALKS OPENED WHILE US-UK BILATERAL NEGOTIATIONS ON CHARTERS AND FARES WERE UNDERWAY AND ON SAME DATE CAB ANNOUNCED ITS NOTICE OF PROPOSED RULE-MAKING WHICH WOULD ESTABLISH A NEW "PUBLIC CHARTER" TO REPLACE MOST EXISTING CHARTER TYPES. AGREEMENT WITH DUTCH AND PROSPECT OF AGREEMENT WITH UK SHATTERED ANY PRETENSE OF ECAC UNITY AT THE OUTSET.

2. CHARTER DISCUSSION OPENED WITH QUERY BY ECAC AS TO WHETHER US WAS IN FACT COMMITTED TO A MULTILATERAL CHARTER ARRANGEMENT. USDEL RESPONDED THAT MULTILATERALISM REMAINED, IN THE US VIEW, A DESIRABLE GOAL, BUT THAT IN SOME INSTANCES (PARTICULARLY ON CHARTER-WORTHINESS RULES) OTHER US POLICY CONSIDERATIONS WOULD HAVE PRIORITY.

3. DISCUSSION THEN TURNED TO USCAB'S NEW CHARTER PROPOSALS. BOTH EUROPEANS AND CANADIANS WERE CLEARLY TAKEN ABACK BY THE SWEEPING NATURE OF THE BOARD'S

PROPOSED RULES AND SOME, PARTICULARLY THE CANADIANS, WERE RESENTFUL THAT RULES HAD BEEN SPRUNG ON THEM JUST AS THE MEETING OPENED.

4. USDEL EMPHASIZED THAT CAB'S RULES WERE PROPOSALS ONLY AT THIS POINT AND THAT VIEWS OF ALL INTERESTED PARTIES INCLUDING GOVERNMENTS WOULD BE WELCOME AND FULLY CONSIDERED BEFORE FINAL RULES ISSUED. ECAC-CANADIAN REACTION WAS THAT CAB HAD PAID LITTLE ATTENTION TO THEIR VIEWS IN THE PAST AND WAS NOT LIKELY TO PAY ANY ATTENTION THIS TIME. MAJOR CONCERN EXPRESSED BY ECAC AND CANADIANS WAS THAT LATEST CAB PROPOSED RULES IN EFFECT WOULD DO AWAY WITH ANY PRACTICAL DISTINCTION BETWEEN SCHEDULED AND CHARTER LIMITED OFFICIAL USE

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SERVICES. RESULT WOULD BE THAT SCHEDULED SERVICES

WOULD BE PLACED IN DISADVANTAGEOUS POSITION, SINCE THEY WOULD HAVE TO CHARGE PREDETERMINED FARES APPROVED BY GOVERNMENTS, WHILE CHARTER FLIGHTS WOULD BE SUBJECT TO NO SUCH RESTRICTION. USDEL POINTED OUT THAT LEGAL DISTINCTIONS WOULD REMAIN, SUCH AS FACT THAT CUSTOMER COULD BUY HIS TICKET ONLY FROM TOUR

OPERATORS OR TRAVEL AGENTS, RATHER THAN DIRECTLY FROM AIRLINE. ECAC AND CANADIANS DISMISSED DISTINCTIONS AS INSIGNIFICANT.

5. WHEN DISCUSSION TURNED TO US DRAFT PAPER, ECAC REPS FOCUSED ON RULES OF ORIGIN ISSUE, CLAIMING THAT IF THEY ACCEPTED US RULES FOR US ORIGINATING CHARTERS THEY WOULD IN EFFECT BE ACCEPTING RULES WITHOUT KNOWING WHAT THOSE RULES WOULD BE IN THE FUTURE. AS THE CAB HAD CHANGED ITS CHARTER RULES BEFORE, WAS NOW IN THE PROCESS OF CHANGING THEM AGAIN, AND MIGHT CHANGE THEM FURTHER IN THE FUTURE, ECAC COUNTRIES WOULD BE LEFT WITH NO SECURITY AND THE MARKET WITH NO STABILITY AS TO WHAT US RULES OF ORIGIN WOULD BE AT ANY GIVEN TIME.

6. USDEL ARGUED THAT EVEN IF PARTIES COULD NOT AGREE ON RULES OF ORIGIN, THERE WERE OTHER ELEMENTS IN CHARTER AREA WHICH COULD LEND THEMSELVES TO MULTILATERAL CONSENSUS, WHICH COULD BE INCORPORATED IN MULTILATERAL AGREEMENT OR IN A SET OF AGREED PRINCIPLES TO BE INCLUDED IN BILATERAL AGREEMENTS ON CHARTERS. USDEL STRESSED THAT EVEN IN CONTROVERSIAL AREA OF RULES OF ORIGIN, AGREEMENT SHOULD BE POSSIBLE THAT WOULD LEAVE MANY ELEMENTS OF REGULATION TO ORIGINATING CHARTER LIMITED OFFICIAL USE

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COUNTRY, IF ONLY THE MINUTIAE OF ADMINISTRATIVE AND DOCUMENTARY REQUIREMENTS INVOLVED. USDEL CONTENDED THAT SENIOR LEVELS OF GOVERNMENTS SHOULD NOT BE IN POSITION OF QUIBBLING OVER MINUTE DETAILS OF CHARTER REGULATION.

7. ECAC RESPONSE WAS THAT, WHILE US WAS MOVING TOWARD ELIMINATION OF ANY PRACTICAL DISTINCTION BETWEEN SCHEDULED SERVICE AND CHARTERS, ECAC VIEW WAS THAT DISTINCTION MUST BE MAINTAINED TO PROTECT SCHEDULED AIRLINES AND INSURE THAT CHARTERS RETAINED THEIR CHARACTER AS SUPPLEMENTAL TO SCHEDULED SERVICE. TO RETAIN THIS DISTINCTION IN ECAC VIEW REQUIRED RULES ADMITTEDLY ARBITRARY BUT NONETHELESS ESSENTIAL TO PRESERVE RESPECTIVE CHARACTER OF SCHEDULED VIS-A-VIS CHARTER SERVICE.

8. CHARTER DISCUSSION NEVER MOVED ESSENTIALLY BEYOND THIS POINT. ECAC AND CANADIANS, PARTICULARLY IN FACE OF CAB'S PROPOSED SWEEPING CHANGES IN CHARTER RULES, WERE IN NO MOOD TO COUNTENANCE ANY RULES OF ORIGIN ACCEPTANCE WHICH WOULD LEAVE THEM NO CONTROL WHATEVER OF US ORIGINATING CHARTERS.

9. HALF-DAY DISCUSSION ON SCHEDULED FARES ALSO HIGHLIGHTED DIFFERENCES BETWEEN US AND ECAC (CANADIANS HAD LITTLE TO SAY ON FARES). USDEL OUTLINED US POLICY OF ENCOURAGING INNOVATIVE LOW FARES AND COMPETITION. EUROPEANS EXPRESSED CONCERN THAT US WAS MOVING TOO FAR TOO FAST IN DIRECTION OF LOWER FARES WITHOUT ALLOWING SUFFICIENT TIME TO MEASURE IMPACT ON INDUSTRY. EUROPEANS ALSO CONTENDED THAT US RELIANCE ON INDIVIDUAL CARRIER FILING OF FARES WITH GOVERNMENTS PUT GOVERNMENTS SQUARELY IN THE FARE SETTING BUSINESS, WHETHER OR NOT THIS WAS US INTENTION.

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10. PARTIES AGREED THAT FURTHER TRIPARTITE MEETING WOULD BE USEFUL, WELL AFTER SUMMER SEASON TO ALLOW TIME FOR STUDYING RESULTS OF PEAK SEASON TRAFFIC DATA. US SUGGESTION FOR TALKS IN LATTER HALF OF NOVEMBER WAS ACCEPTED. CANADIAN DELEGATION EXTENDED INVITATION TO HOLD TALKS IN OTTAWA. COPIES OF CAB'S PROPOSED RULES ON CHARTERS POUCHED TO ADDRESSEES.

11. RESPONSE TO ECAC QUESTIONS ON US CHARTER PAPER
WILL BE POUCHED TO PARIS AS SOON AS COMPLETED FOR
TRANSMITTAL TO ECAC. COPIES WILL ALSO BE FORWARDED TO
OTHER ADDRESSEES.

12. REQUEST FOR ACTION: WE UNDERSTAND ECAC MEETING
SCHEDULED FOR APRIL 25-26 TO DISCUSS CHARTER AND FARES
POLICIES. DEPARTMENT WOULD APPRECIATE ANY
INFORMATION POSTS MIGHT DEVELOP ON LIKELY COURSE OF
MEETING, AND PARTICULARLY ON WHETHER ADDITIONAL US
INITIATIVES WOULD BE HELPFUL IN SECURING MORE
FAVORABLE ECAC POSITIONS. COOPER

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